IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 4354 of 2006(E)

CRA.238/2006 of SESSIONS COURT, ERNAKULAM
ST.1181/2003 of JUDL.MAGISTRATE OF FIRST CLASS, PERUMBAVOOR

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REVN. PETITIONER/APPELLANT/ACCUSED:

T.T. CHAKKUNNY,
THOOKUPARAMBIL VEEDU, AGED 56 YEARS,
NEAR NAYATHODE JUNCTION,
KALADY ROAD, ANGAMALY.

BY ADV. SRI.WILSON URMESE

RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE:

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1. K.N. CHITHAMBARAN, S/O. K.T. NARAYANASWAMY,
KIZHAKKEMADATHIL, KALADY KARA,
KALADY VILLAGE.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SHRI K. SUNIL KUMAR.
R2 BY PUBLIC PROSECUTOR ADV. SHRI KAMMAPPU.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

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CRL. R.P. 4354 OF 2006

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Dated this the 6th December , 2006

O R D E R

The petitioner was convicted for the offence under section 138 of the Negotiable Instruments Act and he was sentenced to undergo simple imprisonment for a period of three months. He was also directed to pay a sum of Rs. 51,000/- to the complainant under section 357(3) of the Code of Criminal Procedure and in default of payment, to undergo simple imprisonment for a period of 45 days. The petitioner filed an appeal challenging the conviction and sentence. The petition for condonation of delay was dismissed by the appellate court and consequently the appeal was also dismissed. The revision is filed challenging the dismissal of the appeal on the ground of delay.

2. Learned counsel for the petitioner submitted that the petitioner is prepared to pay compensation amount of Rs. 51,000/- within a reasonable time and that the sentence of imprisonment for a period of three months may be reduced in the light of the decision reported in **Anilkumar vs. Shammy (2002(3) KLT 852) .** Learned counsel for the first respondent

submitted that the compensation awarded by the trial court was in 2005 and that it is only just and proper to enhance the compensation amount.

3. Taking into account the facts and circumstances of the case, I am inclined to reduce the substantive sentence to imprisonment till the rising of the court and to direct the revision petitioner to pay compensation amount of Rs. 55,000/- (Rupees fifty five thousand only) to the complainant within a period of three months.

In the result, the Crl. Revision Petition is allowed in part and it is disposed of in the following manner.

i) The conviction of the petitioner under section 138 of the Negotiable Instruments Act is confirmed.

ii) The sentence of imprisonment for a period of three months is reduced to imprisonment till the rising of the court.

iii) The petitioner shall pay a sum of Rs. 55,000/- (Rupees fifty five thousand only) to the complainant under section 357(3) of the Code of Criminal

Procedure and in default of payment of compensation, to undergo simple imprisonment for a period of three months.

iv) However, the petitioner is granted three months' time to pay the amount of compensation.

K.T. SANKARAN,
JUDGE.

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K.T. SANKARAN, J.

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CRL. M.A. No. 11075 OF 2006

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Dated this the 6th December , 2006

O R D E R

The first respondent appears. There is a delay of 66 days in filing the revision. The delay is explained in the affidavit. In the facts and circumstances of the case and circumstances of the case, the delay is condoned.

Number the Crl. Revision Petition.

K.T. SANKARAN,
JUDGE.

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